

## AGENDA ITEM K-4



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Introduce Ordinance Amending Lodi Municipal Code, Title 5 "Permits and Regulations", Chapter 5.40 "Adult-Oriented Businesses", by Repealing and Reenacting Section 5.40.020 "Location of Adult-Oriented Businesses" to add "Residentially-Zoned Property" to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and Repealing and Reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process.

**MEETING DATE:** July 19, 2006

**PREPARED BY:** Janice D. Magdich, Deputy City Attorney

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**RECOMMENDED ACTION:** Introduce Ordinance Amending Lodi Municipal Code, Title 5 "Permits and Regulations", Chapter 5.40 "Adult-Oriented Businesses", by Repealing and Reenacting Section 5.40.020 "Location of Adult-Oriented Businesses" to add "Residentially-Zoned Property" to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and Repealing and Reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process.

### BACKGROUND INFORMATION:

#### Section 5.40.020 – Location of Adult-Oriented Businesses.

In 1992 the City of Lodi established its first regulations regarding adult business. That act by the City Council set forth where adult businesses may be located within the community. Currently no person is to establish, conduct or permit to be established or conducted any adult-oriented business within one thousand feet of any church, school, playground, child-care center or existing adult-oriented business.

The addition of "residentially zoned property" to the list of land uses subject to distance regulations regarding the location of adult businesses furthers the intent of Lodi Municipal Code Section 5.40.020, as the City has a substantial interest in preserving the quality of urban life within the City and distance regulations regarding where adult businesses are located are designed to serve this interest by decreasing blight and crime. The inclusion of "residentially-zoned properties" is a reasonable and related extension of the types of land uses currently subject to distance regulations by the City. As the United States Supreme Court has upheld distance regulations which prohibit adult businesses from locating within 1,000 feet of any residentially zoned property, it is the opinion of the City Attorney's office that the proposed revision to Section 5.40.020 is a constitutionally permitted regulation of adult-oriented businesses.

Staff therefore recommends the addition of "residentially-zoned property" to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses.

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Section 5.40.400(D)(1) – Adult-Oriented Business Employee License Required:

In November 2003 the City Attorney's office brought an ordinance before the Council to amend Lodi Municipal Code Title 5 "Permits and Regulations", Chapter 5.40 "Adult-Oriented Businesses". In part, the amendment was to eliminate the requirement that applicants for licensure under Chapter 5.40 provide fingerprints. Due to an oversight, the Ordinance adopted by Council retained the requirement that employees of adult-oriented businesses be fingerprinted as part of the City's licensure process (section 5.40.400(D)(1)). To correct this oversight, staff recommends the adoption of the proposed ordinance.

**FUNDING:** None

  
\_\_\_\_\_  
Janice D. Magdich  
Deputy City Attorney

Attachment – Proposed Ordinance

cc: Randy Hatch, Community Development Director  
Jerry Adams, Police Chief

City/CounCom/Ordinances/AdultBusinesses5.doc

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APPROVED:   
\_\_\_\_\_  
Blair King, City Manager

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE TITLE 5 – PERMITS AND REGULATIONS – CHAPTER 5.40, “ADULT-ORIENTED BUSINESSES,” BY REPEALING AND REENACTING SECTION 5.40.020, “LOCATION OF ADULT-ORIENTED BUSINESSES,” TO ADD “RESIDENTIALLY-ZONED PROPERTY” TO THE LIST OF LAND USES SUBJECT TO DISTANCE REGULATIONS REGARDING THE LOCATION OF ADULT-ORIENTED BUSINESSES; AND REPEALING AND REENACTING SECTION 5.40.400(D)(1) TO DELETE THE REQUIREMENT THAT EMPLOYEES OF ADULT-ORIENTED BUSINESSES BE FINGERPRINTED AS PART OF THE EMPLOYEE LICENSE PROCESS

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 5 – Permits and Regulations – Chapter 5.40, “Adult-Oriented Businesses,” Section 5.40.020, is hereby repealed and reenacted to read as follows:

5.40.020 - Location of Adult-Oriented Businesses.

From and after adoption of this chapter, no person shall establish, conduct, or permit to be established or conducted any adult-oriented business within one thousand feet of any church, school, playground, child care center, residentially zoned property, or adult-oriented business.

For the purposes of this section, the distance between uses shall be measured in a straight line without regard to intervening structures from the closest exterior wall of each business or use.

Adult-oriented businesses in existence on the effective date of this chapter are deemed nonconforming uses, which may continue subject to the provisions of Section 17.69.030.

SECTION 2. Lodi Municipal Code Title 5 – Permits And Regulations – Chapter 5.40, “Adult-Oriented Businesses,” Section 5.40.400(D)(1), is hereby repealed and reenacted to read as follows:

5.40.400(D)(1) – A color photograph of the applicant clearly showing the applicant’s face. Any fees for the photograph shall be paid by the applicant.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2006

\_\_\_\_\_  
SUSAN HITCHCOCK  
Mayor

Attest:

JENNIFER M. PERRIN  
Interim City Clerk  
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State of California  
County of San Joaquin, ss.

I, Jennifer M. Perrin, Interim City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held July 19, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

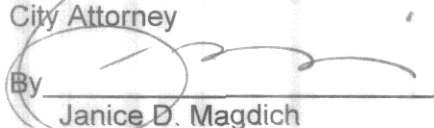
I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

\_\_\_\_\_  
JENNIFER M. PERRIN  
Interim City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
City Attorney

By

  
Janice D. Magdich  
Deputy City Attorney